

BOARD OF APPEALS CASE NO. 4990

APPLICANT: Carl Lund

REQUEST: Variance to permit a swimming pool with deck within the required setback; 616 Haven Place, Edgewood

HEARING DATE: January 12, 2000

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BEFORE THE

ZONING HEARING EXAMINER

OF HARFORD COUNTY

Hearing Advertised

Aegis: 11/24/99 & 12/1/99

Record: 11/26/99 & 12/3/99

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ZONING HEARING EXAMINER'S DECISION

The Applicant, Carl Lund, appeared before the Hearing Examiner requesting a variance to Section 267-26(D)(3) of the Harford County Code, to allow an existing swimming pool with deck to be less than 10 feet from the property line in an R3/CDP District.

The subject parcel is located at 616 Haven Place in the First Election District. The parcel has dimensions of 45 feet by 142 feet and is zoned R3/CDP/CR/IDA.

Mr. Carl Lund appeared and testified that the subject parcel is improved by a single-family dwelling, a storage shed and a 12 foot by 20 foot above-ground swimming pool with a deck. The witness said the pool was installed approximately 5 years ago by a licensed contractor and the Applicant assumed that the contractor obtained the necessary permits and maintained the correct setbacks.

The Applicant said that the subject parcel is unique due to its exceptional narrowness of 45 feet, and that denial of the requested variance would cause practical difficulty because it would be difficult to relocate the pool on the subject parcel due to existing improvements and vegetation. The Applicant said that he did not feel the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because he has discussed the request with his neighbors and none of the neighbors appeared to testify in opposition to the request.

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Mr. Anthony McClune, Manager, Division of Land Use Management, for the Department of Planning and Zoning, appeared and testified that the Staff has reviewed the Applicant's request and that the pool is located 4 feet 6 inches from the side property line and an average of 6 feet 3 inches from the rear property line. Mr. McClune said that along the side and rear property lines there is a 6-foot board fence that screens the pool and that it would appear difficult to relocate the pool to meet all necessary setbacks, given the existing structures and narrow width of the lot. Mr. McClune said that the Staff recommended conditional approval of the Applicant's request.

CONCLUSION:

The Applicant is requesting a variance to Section 267-26(D)(3) of the Harford County Code, to permit an existing swimming pool less than 10 feet from the property line in an R3/CDP District.

Section 267-26(D)(3) provides:

"Recreation facilities, such as swimming pools and tennis courts, if the facilities are used by the occupants or guests of the principal use and no admission or membership fees are charged, provided that the edge of the facility, not including security fences, shall be located not less than ten (10) feet from any side or rear lot line..."

The uncontradicted testimony of the Applicant was that the property is unique due to its exceptional narrowness and that moving the swimming pool would cause practical difficulty because the Applicant felt that the licensed contractor who installed the pool and deck several years ago complied with the required setbacks. The witness said that he did not feel that approval of the variance would be substantially detrimental to adjacent properties or materially impair the purpose of the Code because he had discussed the situation with his neighbors and none of his neighbors appeared and testified in opposition to the request.

It is the finding of the Hearing Examiner that the subject parcel is unique for the reasons stated by the Applicant in his testimony and, further, that the variance will not be substantially detrimental to adjacent properties or materially impair the purpose of the Code.

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Therefore, it is the recommendation of the Hearing Examiner that the requested variance to allow the swimming pool to remain 4 feet 6 inches from the side property line and an average of 6 feet 3 inches from the rear property line be approved, subject to the condition that the Applicant obtain all necessary permits and inspections for the swimming pool and deck.

Date FEBRUARY 7, 2000



L. A. Hinderhofer *ds*
Zoning Hearing Examiner